

1 UNITED STATES BANKRUPTCY COURT
2 CENTRAL DISTRICT OF CALIFORNIA
3 RIVERSIDE DIVISION

4 In re:) Case No. RS 04-14498 PC
5)
6 PLUMBEREX SPECIALTY) Chapter 11
7 PRODUCTS, INC.,)
8) Date: May 19, 2005
9) Time: 9:30 a.m.
Debtor(s).) Place: U.S. Bankruptcy Court
Courtroom 303
3420 Twelfth Street
Riverside, CA 92501

10 *At the above captioned date and time, the court considered the Application for Payment*
11 *of Interim Fees and/or Expenses of Van Etten, Suzumoto & Becket, LLP, Special Litigation*
12 *Counsel for Debtor and Debtor-In-Possession. The following is the text of the court's final*
13 *ruling which is attached to the minutes of the hearing. Because the court has determined that*
14 *the disposition constitutes a "reasoned explanation" for the court's decision within the scope of*
15 *the E-Government Act of 2002, the final ruling is posted to the court's Internet site,*
16 *www.cacb.uscourts.gov, in a text-searchable format as required by the act. The official record*
17 *remains with the minutes of the hearing.*

18 **FINAL RULING**

19 Van Etten, Suzumoto & Becket, LLP ("Van Etten"), special litigation counsel to the
20 debtor in possession, has filed its first application for an interim allowance of fees and expenses
21 in this case. Van Etten has itemized \$138,182.75 in fees and \$5,137.31 of costs, for a total of
22 \$143,320.06. Watertite Products, Inc. ("Watertite") has filed an objection to the application.
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24 The court approved Van Etten's employment on January 20, 2005, retroactive to October
25 3, 2004. Van Etten rendered a total of 361.15 hours of services to the estate billed at a blended
26 hourly rate of \$382.62. Van Etten's itemized services cover the period from October 3, 2004
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1 through February 28, 2005.

2 11 U.S.C. Section 330(a)(1)(A) & (B) permits approval of “reasonable compensation for
3 actual, necessary services rendered by . . . [a] professional person, or . . . any para-professional
4 person” and “reimbursement for actual, necessary expenses.” In the present case, the debtor
5 employed Van Etten to assist it in its reorganization. Van Etten represented the debtor primarily
6 in the Patent case and Antitrust case. Its services included research and preparation of debtor's
7 opening brief and reply brief in the Patent case, research and preparation of the complaint in the
8 Antitrust case, and assisting in the mediation between debtor and Watertite.
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10 Watertite objects to allowance of the fees and seeks a fee reduction of \$34,213 , claiming
11 primarily that Van Etten's services were duplicative of services rendered by other professionals,
12 Schaap, BSKS and Scillieri, retained to assist debtor in the Patent case, and Disner, who prepared
13 the complaint in the Antitrust case and represented the debtor in the Watertite mediation.
14 Watertite further argues that Van Etten, Schaap, BSKS and Scillieri together failed to exercise
15 proper billing judgment on work performed for the estate, noting, for example, that the firms
16 billed over 400 hours on the Patent case during the period for which interim fees are sought,
17 aggregating to fees of over \$160,000. Watertite also asserts that Van Etten's time records are
18 "replete with inadequate task descriptions and lumping," and that a 20% fee reduction for
19 inadequate time entries is warranted and appropriate."
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22 Watertite's objection is sustained, in part, and denied, in part. In awarding fees under
23 section 330(a), the court must consider whether the services were necessary to the administration
24 of, or beneficial at the time at which the service was rendered toward completion of, a case under
25 title 11. 11 U.S.C. Section 330(a)(3)(C). In making such a determination, the court considers,
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1 among other factors, whether the services were performed within a reasonable amount of time
2 commensurate with the complexity, importance, and nature of the problem, issue or task
3 addressed. 11 U.S.C. Section 330(a)(3)(D). Professionals employed under section 327 must
4 make a good faith effort to exclude from fee requests hours that are excessive, redundant,
5 unjustified, or otherwise unnecessary. Unsecured Creditors' Committee v. Puget Sound Plywood,
6 Inc., 924 F.2d 955, 961 (9th Cir. 1991); *see* In re Riverside Linden Inv. Co., 925 F.2d 320, 322
7 (9th Cir. 1991).

9 Van Etten has the burden of establishing that its services were compensable legal services,
10 and that such legal services were necessary to the proper and effective administration of the
11 estate. Here, Van Etten must provide evidence in the form of declarations and comprehensive
12 time records establishing that the legal services for which it seeks compensation did not duplicate
13 those rendered by Disner, Schapp, BSKS or Scillieri, and that the firm exercised appropriate
14 billing judgment for its services when viewed in conjunction with those rendered by Disner,
15 Schaap, BSKS and Scillieri on the Patent case, Antitrust case, and the Watertite mediation.
16 Without more information, the court is unable to make a finding that all of such services were
17 necessary nor that Van Etten has exercised proper billing judgment in seeking compensation for
18 such services.

21 Based on the foregoing, the court will approve an interim allowance and payment of
22 \$96,727.75 of the \$138,182.75 in compensation sought by Van Etten, without prejudice to Van
23 Etten's right to seek allowance and payment of the balance of \$41,455 in fees in a further
24 application addressing the concerns set forth above. The court will also approve \$5,137.31 as
25 actual, necessary expenses in this case. This interim fee allowance is subject to the court's
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1 reexamination and adjustment in making a final determination of the nature, extent and value of
2 the services performed upon the conclusion of the case. Leichty v. Neary (In re Strand), 375 F.3d
3 854 (9th Cir. 2004).
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